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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/660,744  | 09/12/2003  | Takashi Nozaki       | 031117              | 5997             |
| 23850 7590 11/30/2009<br>KRATZ, QUINTOS & HANSON, LLP<br>1420 K Street, N.W.<br>Suite 400<br>WASHINGTON, DC 20005 |             |                      |                     |                  |
| EXAMINER  |             |                      |                     |                  |
| MARCUS, LELAND R  |             |                      |                     |                  |
| ART UNIT  |             | PAPER NUMBER         |                     |                  |
| 3684  |             |                      |                     |                  |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/660,744

**Applicant(s)**

NOZAKI ET AL.

**Examiner**

Leland Marcus

**Art Unit**

3684

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 August 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26, 28, 30, 32, 34, 36-38, 40, and 42-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26, 28, 30, 32, 34, 36-38, 40 and 42-48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

Claims 1-4, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26, 28, 30, 32, 34, 36-38, 40, and 42-48 are pending in the instant application. Applicant amended claims 1, 4, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26, 28, 30, 32, 36, 42, 44, and 46, and cancelled claims 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 7, 29, 31, 33, 35, 39, and 41, and added claim 48. As Applicant has cancelled claims 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 7, 29, 31, 33, 35, 39, and 41, all previous rejections of those claims are therefor withdrawn.

The citation of references or the text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 31, 2009 has been entered.

### ***Interview Request***

Applicant is encouraged to speak with the Examiner prior to responding to this Office action. Applicant should call the Examiner directly at 571-270-1819 in order to

schedule an interview. If at all possible, the Examiner requests that the inventor be included in the interview.

### ***Specification***

Applicant's amendment to the specification is sufficient to overcome the objection based on 35 USC 112, 1<sup>st</sup> paragraph, and the previous objection to the claims citing 35 USC 112 is withdrawn. However, the claim objection below is maintained.

### ***Claim Objections***

The claims section is objected to because the claims generally fail to conform to current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors. The claims should be idiomatically translated into English. For purposes of examination, the Examiner will review claims that appear to be similar as a group.

### ***Claim Rejections - 35 USC § 103***

Claims 1-4, 6, 14, 18, 20, 24, 26, 34, 36-38, 40, and 42-48 are rejected under 35 U.S.C. 103(a) as being anticipated by Niwa in view of Toyoda.

**As to claims 1-4, 6, 14, 18, 20, 24, 26, 34, 36-38, 40 and 42-48**, Niwa teaches a settlement terminal, a payment terminal (mobile terminal), and a settlement center are electronically connected (figures 1 and 2);

purchase data is transmitted from the checkout terminal being associated with the customer identification data (column 2, lines 10-14 and figure 3);

the authentication section determines whether the customer identification data transmitted by the communication terminal is the same as the customer identification data transmitted by the checkout terminal (column 2, lines 20-29);

when the customer identification data transmitted by the communication terminal is determined to be the same the customer identification data transmitted by the checkout terminal, the authentication section compares the customer identification data with the customer specific data (column 2, lines 30-62).

Niwa does not teach specifically teach item descriptions. However, Toyoda teaches the purchase data comprising purchase identification data for identifying the debt, the purchase identification data comprising purchased items data that represent at least one purchased item, because Toyoda teaches an item description is sent from the server to the mobile terminal when a reference is made on the purchase specification.

It would be obvious to one skilled in the art at the time of the invention to combine the settlement system of Niwa with the item descriptions of Toyoda. The rationale is that the claimed invention is simply a combination of old elements, and in the combination each element performs the same function as it does separately, and the results of the combination are predictable (rationale A of the *KSR* decision).

Claims 8, 10, 12, 16, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Niwa in view of Toyoda, in further view of Nishimura.

**As to claims 8 and 10**, Niwa does not teach a mobile telephone number (customer identification information) is sent from a mobile terminal to a shop terminal.

However, Nishimura does teach a mobile telephone number (customer identification information) is sent from a mobile terminal to a shop terminal and a management device provides certification by confirming whether the customer identification information received from the shop terminal is stored in the storage.

It would be obvious to one skilled in the art at the time of the invention to combine the settlement system of Niwa with the use of telephone numbers of Nishimura. The rationale is that the claimed invention is simply a combination of old elements, and in the combination each element performs the same function as it does separately, and the results of the combination are predictable (rationale A of the KSR decision).

**As to claims 12**, Niwa teaches that the payment terminal sends terminal identifier to the settlement terminal when the inputted password is identical to the password stored in the storage.

**As to claims 16 and 22**, the art and rationale of claims 8-11 rejections apply.

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Niwa in view of Toyoda, in further view of Miura.

**As to claims 28**, Niwa does not specifically teach confirmation messages. However, Miura does teach message asking for confirmation of the purchased items are communicated to a mobile terminal of a customer before payment process. It would be obvious to one skilled in the art at the time of the invention to combine the settlement system of Niwa with the confirmation of Miura. The rationale is that the claimed

invention is simply a combination of old elements, and in the combination each element performs the same function as it does separately, and the results of the combination are predictable (rationale A of the *KSR* decision).

Claims 30 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Niwa in view of Toyoda, in further view of Hishinuma.

**As to claims 30 and 32**, Niwa does not specifically teach duplicate payments. However, Hishinuma does teach duplicate payment is prevented by setting a payment completion flag that shows whether payment is done or not for each of billing information. It would be obvious to one skilled in the art at the time of the invention to combine the settlement system of Niwa with the duplicate payments of Hishinuma. The rationale is that the claimed invention is simply a combination of old elements, and in the combination each element performs the same function as it does separately, and the results of the combination are predictable (rationale A of the *KSR* decision).

### ***Response to Arguments***

Applicant's arguments filed August 31, 2009 have been fully considered but they are moot in view of the new grounds of rejection.

***Examiner's Note***

**Regarding KSR** for rejections under 35 U.S.C. 103. In order to overcome these rejections, the Examiner recommends that the Applicant provide evidence or convincing argument that satisfies one of the following:

- (1) one of ordinary skill in the art could not have combined the claimed elements by known methods (e.g., due to technological difficulties);
- (2) the elements in combination do not merely perform the function that each element performs separately; or
- (3) the results of the claimed combination were unexpected.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leland Marcus whose telephone number is (571)-270-1819. The examiner can normally be reached on 8:30 A.M. - 5:00 P.M. ET, M - F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Abdi can be reached on (571) 272-6702. The fax number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. If you



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have questions on accessing the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Leland Marcus  
Patent Examiner

/Kambiz Abdi/  
Supervisory Patent Examiner, Art Unit 3684